

Testimony of Attorney General Martha Coakley
Joint Committee on the Judiciary
H.B. 4293, *An Act to Combat Economic Crime*
February 23, 2010

Good afternoon Chairwoman Creem, Chairman O’Flaherty, and members of the Committee. I am here today to testify in support of House Bill 4293, *An Act to Combat Economic Crime*, which I filed along with a coalition of legislators and District Attorneys, including lead sponsor and Majority Leader James E. Vallee.

This comprehensive economic crime legislation is designed to give law enforcement the necessary tools to investigate and prosecute sophisticated illegal activities in the 21st century by criminalizing money laundering and enterprise crimes, and by updating our wire interception laws. Particularly as we explore the possibility of expanded gaming in the Commonwealth, it is critical that we update our laws so that we can effectively address the types of financial crimes and corruption that are often associated with legalized gaming.

Before I address the specifics of the bill, let me say a few things by way of introduction. During my over 20 years of experience working as a prosecutor, especially my experiences in the white collar unit in the Middlesex District Attorney’s Office, in the federal Organized Crime Strike Force at the United States Attorney’s Office, and now as the Attorney General overseeing complex white collar investigations and prosecutions, I know that there are strengths and weaknesses of our state’s criminal justice system.

It is important that as things change in our society, we constantly evaluate how we respond to the new types and techniques of criminal behavior in today’s world. Unfortunately, while criminals in Massachusetts are taking advantage of the vast

advances in technology, our laws in many ways have not kept up with these technological changes. This bill is designed to help address that.

I also know from my experiences as a prosecutor that the federal government has tools that the state government does not have to prosecute those whose business is criminal activity, and those who hide the source and the proceeds of such illegal activity. In other words, state law has been ineffective for investigating and prosecuting criminal enterprises.

The proposal before you today allows the Commonwealth to help deter, investigate, and prosecute such crime. It will send a message to those who finance and profit from the business of crime, including loan sharking, murder, extortion, drug peddling, child sexual exploitation, prostitution and gun running.

The bill updates our Commonwealth's laws in 3 key areas:

Money Laundering:

Money laundering involves concealing or "cleaning up" the source of illegally obtained money, and is a criminal offense under federal law and in 28 states across the country. Massachusetts has no money laundering statute. Our failure to combat money laundering creates a new critical public safety priority. Money laundering is frequently used as a way to conceal as well as bankroll large-scale, illegal enterprises such as terrorism, narcotics trafficking and other organized crime.

Money laundering is always a concern where casino gaming is legal. Illegal profits can be turned into chips, chips into money, and "winnings" are then taxed. Those engaged in enterprise crime can easily "launder" stashes of incriminating evidence through this and other methods.

This proposed money laundering bill would prevent money laundering by making such activity illegal in the Commonwealth. The bill makes it a crime to knowingly engage in a financial transaction where the funds are derived from criminal activity with the intent to further the criminal activity.

Enterprise Crime:

In 2008, the AGO created the Enterprise and Major Crimes Division. Its focus is on illegal activity, including so-called organized crime families, street gangs, and large-scale drug and human trafficking groups. Many of these organizations have sophisticated structures and extensive supporting networks that allow them to engage in multiple criminal activities, such as money laundering, illegal gambling, running drugs and guns, credit card and identity theft, and other types of fraud. Casinos tend to be a convenient target for those engaged in money laundering for the reasons cited above.

This enterprise crime bill provides law enforcement with necessary tools to investigate and mitigate those whose business is crime. We can deter and prosecute ring leaders and major players, who control and direct the enterprise but often do not partake in the actual commission of the crime. Enterprise crime statutes exist under federal law and in 32 states across the country, but not in Massachusetts.

Update to Wire Laws:

Last updated in 1968, the Massachusetts wire interception statute has not been updated to address either the technological advancements in telecommunications, or the changes in the nature, structure and techniques of criminal enterprises over the past 40 years. This bill provides much-needed updates to the wire interception law, including adding a definition for "electronic communication," designating new crimes eligible for

the use of a lawful interception, and extending the amount of time that a lawful interception can remain open from 15 to 30 days to account for the breadth and complexities of criminal investigations in the 21st century. The bill also allows lawful, court approved one-party consent monitoring and recording of conversations of certain crimes. At this time, 43 states have wire interception statutes, and 35 have one-party consent statutes.

This legislation is good for public safety, and it is good for the economy in Massachusetts. Only five states do not have at least one of the three components of this bill on the books. Those states are Alabama, Kentucky, Maine, Massachusetts, and Vermont. Massachusetts should pass this bill and put the Commonwealth where it needs to be, because our laws must keep pace with technology and the reality of modern criminal enterprises.

I appreciate the opportunity to talk to you today about these crucial criminal law updates. And I urge you to consider them favorably. Our office remains committed to working with the legislature for the adequate public and consumer protections we need in 2010 and beyond.